

Code of Practice on Sampling and Reporting at Materials Facilities

Consultation Document

March 2024

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**Code of Practice
on
Sampling and Reporting at Materials Facilities**

Consultation Document

1. Executive Summary

1. The Scottish Government is seeking views from interested stakeholders on a proposed new Code of Practice on Sampling and Reporting at Materials Facilities.
2. The Code is issued by the Scottish Ministers to provide guidance to operators of materials facilities (MFs) on the discharge of certain duties, specifically those in section 34(2L)(b) of the Environmental Protection Act 1990. The current Code was issued on 2 March 2015.¹
3. The proposed new Code will make some substantial changes from the previous Code. These changes are to support the introduction of extended producer responsibility (EPR) for packaging from 2025. Packaging EPR is being introduced by the Scottish Government, alongside the other governments of the UK, as part of our work to build a more circular economy and address the global climate emergency.
4. The main changes are: to bring certain bulking facilities into scope (see section 4 of this document); to increase the required sampling frequency for input sampling (section 7); and to introduce new material categories to be sampled and reported (sections 7 and 8).
5. All the substantive changes to the Code were consulted on through the UK-wide consultation on introducing packaging EPR, and set out in the government response published in March 2022.² We have also significantly restructured the Code to allow the new requirements to be easily understood.
6. The purpose of this further consultation with interested stakeholders is to ensure that the proposed new Code, which puts these changes into practice, is clear and avoids unintended consequences. The consultation will run from 26 February to 19 April. We welcome responses from all interested stakeholders and especially local authorities, waste-management companies, and waste-sector trade bodies. We intend to lay the new Code in Parliament in June 2024, with its requirements coming into force from 1 October 2024.

¹[Current 2015 Material Facilities Code of Practice PDF](#)

²[UK-wide Consultation on Packaging EPR Government Response](#)

2. Introduction

2.1. The Code of Practice

7. The purpose of the Code of Practice on Sampling and Reporting at Materials Facilities is to provide guidance to those authorised to operate an MF on the discharge of certain duties, specifically the duties in section 34(2L)(b) of the Environmental Protection Act 1990. The proposed new Code will replace the current Code, issued by the Scottish Ministers on 2 March 2015.
8. The current Code applies to operators of Materials Recovery Facilities, handling 1,000 tonnes or more of dry mixed recyclable waste. These operators must comply with the Code as a condition of their waste-management licence and/or PPC permit, as required by regulation 13B of the Waste Management Licensing (Scotland) Regulations 2011 (the “WML regulations”) and/or regulation 32A of the Pollution Prevention and Control (Scotland) Regulations 2012 (the “PPC regulations”).¹
9. The current Code places on the operators of these facilities a range of sampling and reporting requirements; in particular, it requires them to take samples of the material they handle, both at the input stage and at the output stage (i.e. when it arrives at the MRF and when it leaves). The operator must report to SEPA data on the composition of each sample, including reporting the weights of individual materials (glass, paper, cardboard, metal, and plastic) contained in each sample.
10. Facilities handling under 1,000 tonnes of dry recyclable waste, and any materials facility other than a Materials Recovery Facility, are out of scope of the current Code.

2.2. Extended Producer Responsibility for Packaging

11. The Scottish Government, alongside the other UK governments, is introducing extended producer responsibility (EPR) for household packaging waste from 2025.
12. Packaging EPR will place responsibility on businesses for the environmental impact of their packaging. This to incentivise recyclability and reuse of packaging, and in turn encourage more domestic reprocessing and overall system improvements and savings. In particular, packaging EPR will see producers pay to local authorities (via a scheme administrator) the full net cost of operating an efficient and effective household packaging collection system.

¹ [The Waste Management Licensing \(Scotland\) Regulations 2011](#); [The Pollution Prevention and Control \(Scotland\) Regulations 2012](#)

13. With the other UK governments, we published two consultation documents in 2019 and 2021 which, together, outlined our proposals on the introduction of EPR for packaging across the UK. The Government Response published in March 2022 confirmed policy details for packaging EPR.
14. As set out in the government response, robust sampling and compositional analysis from materials facilities is an important factor in calculating local authorities' disposal costs. The government response confirmed our intention to make a number of changes to the reporting regime at materials facilities, including:
 - Requiring MFs that bulk waste from two or more suppliers to carry out sampling and reporting;
 - Retaining the current minimum threshold of 1,000 tonnes of dry recyclable waste per annum;
 - Amending the list of material categories for reporting;
 - Increasing the sampling frequency for input sampling to 60kg per 75 tonnes.
15. Regulations to bring these reporting requirements in for England and Wales were made in October 2023 and will come into force on 1 October 2024.¹ Northern Ireland likewise intend to bring these reporting requirements into force.
16. We are bringing these new reporting requirements in through this new Code. We have had close regard to the England and Wales regulations in drafting this new Code. As these requirements have already been consulted upon, the purpose of this consultation with affected stakeholders is not to seek further views on whether these requirements should be introduced, but to ensure that the new Code is clear and achieves its aims.
17. We will be amending the WML and PPC regulations to refer to the new Code once published, and to require the newly in-scope sites to comply with the Code of Practice. For sites that are currently exempt from the requirement to hold a waste-management licence under paragraphs 11 and/or 17 of schedule 1 of the WML regulations, we intend to make compliance with the Code a condition of the exemption. We will bring forward regulations to make these changes in June 2024.

2.3. How to answer this consultation

18. We welcome answers to this consultation from all affected stakeholders and, in particular, local authorities, waste-management companies, and waste-sector trade bodies. Section 3 of this consultation is compulsory for all respondents to help us place responses in context. Sections 4, 5, 6, 10, and

¹ [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2023](#)

11 are potentially relevant to all respondents. Sections 7 and 9 are relevant to operators of bulking sites and/or sorting facilities. Section 8 is relevant to sorting facilities only.

19. This consultation document has been circulated, along with the draft of the new Code of Practice and a blank response template, to interested stakeholders by email. Please respond by completing the response template document and returning it to producerresponsibility@gov.scot.
20. If you are reading this document and wish to respond but do not have a copy of the draft Code and/or the response template, please email us and we will be happy to provide these.
21. Responses are also welcome in whatever format you find easiest to provide, as long as they respond directly to the questions asked and you send them to the above email address. If you have any queries about how to respond to this consultation, please email us.
22. Responses must be received by the Scottish Government by 19 April 2024 to be taken into account.
23. As part of your response, we will collect your contact details and any personal data you mention as part of your response. We will treat all personal information we collect in line with the Scottish Government's privacy policy.¹

2.4. After the consultation

24. After the consultation closes, the Scottish Government will analyse responses and feedback received and produce a finalised Code. We intend laying the new Code in Parliament in June, accompanied by the proposed amendments to the WML and PPC regulations to bring the new sites into scope. The new reporting requirements will then come into force on 1 October 2024, in line with approaches in other UK nations.

3. About You

25. Please provide us with the following information about your organisation. This is to help improve our data about the sites in scope of this Code and to establish whether there are any patterns in different organisations' responses to the consultation.

Q1. **Contact details**

Please provide:

- a. The name of the organisation you are responding on behalf of
- b. Your name and position within the organisation

¹ [Scottish Government Privacy Guidance](#)

- c. A contact email address for the organisation
- d. Any relevant reference details, e.g.: waste-management licence number, PPC permit number, etc.

Q2. Which option best describes you?

- a. Local authority
- b. Waste-management company
- c. Trade body
- d. Other

If you answered 'Other', please provide details.

Q3. Which of the following applies to you?

Please check all that apply.

- a. Waste Management Licence holder
- b. PPC permit holder
- c. Exempt from the requirement to hold a WML¹
- d. Other

If you answered 'Other', please specify.

Q4. What type of sites, handling 1,000 tonnes or more of dry recyclable waste per annum, do you operate?

Please check all that apply, and refer to Section 7, "Definitions", of the draft Code of Practice, if you are unclear about the definition of any terms.

- a. Materials recovery facility
- b. Bulking facility (bulking waste from two or more suppliers)
- c. Bulking facility (bulking waste from one supplier only)
- d. Waste transfer station
- e. Household waste recycling centre
- f. Other

If you answered 'Other', please provide details.

4. Questions on section 1: introduction and scope

- 26. This section provides some detail about the purpose of the Code and sets out who must comply with the Code and what obligations different MF operators have under the Code.

¹ i.e. under either paragraph 11 or 17 of schedule 1 of the Waste Management Licensing (Scotland) Regulations 2011.

27. Any person authorised to operate a materials facility must comply with the Code as a condition of their authorisation. The new definition of “materials facility” includes sites that bulk waste from more than one supplier, as well as the existing facilities that are already in scope (currently referred to as MRFs). The obligation applies to holders of waste management licences and/or PPC permits, and to any person who is exempt from the requirement to hold a waste-management licence under paragraph 11 and/or 17 of the Waste Management Licensing (Scotland) Regulations 2011.

Q5. Is the draft Code clear about which sites must comply with the Code?

- a. Yes
- b. No
- c. Don't know

If you answered 'No', please provide details of anything that is unclear.

28. Different categories of MF have different obligations under this Code. In particular, an MF that receives or is likely to receive less than 1,000 tonnes of dry recyclable waste (mixed or single stream) in any reporting year does not have any obligations under this Code.
29. Facilities (handling 1,000 tonnes or more) newly in scope because they bulk waste from more than one supplier have input sampling obligations, as well as a range of general reporting obligations and the requirement to report on next and end destination of waste leaving the MF. Facilities in scope of the existing Code have all these obligations, plus output sampling obligations.
30. Facilities that do not fall into either of the categories in paragraph 29 do not have any obligations under this Code.
31. For the definition of “supplier” see section 7 of the draft Code. With the other UK governments, we are currently considering whether household waste recycling centre (HWRC) waste should be sampled and reported separately from waste collected at the kerbside, even when they are from the same local authority. This would improve the consistency of data available for calculating LA disposal costs and ensure the same requirements apply to all sites handling LA HWRC waste, regardless of whether some functions may be undertaken by private operators.

Q6. Is the draft Code clear about the obligations of different sites under the Code?

- a. Yes
- b. No
- c. Don't know

If you answered 'No', please provide details of anything that is unclear.

Q7. Do you agree with the proposed approach to HWRC waste?

- a. Yes
- b. No
- c. Don't know

If you answered 'No', please give your reasons.

32. We wish reporting under this new Code to begin from 1 October 2024 to help inform disposal cost calculations for packaging EPR from 2025 onwards. This is in line with the England and Wales regulations. As set out in paragraphs 13 and 14, our intention to introduce these new reporting requirements has been public since March 2022. However, we recognise that some facilities, especially those newly in scope, may take some time after the publication of the new Code (intended for June 2024) before being ready to comply. We would welcome MF operators' views on the likely implementation time.

Q8. When do you expect to be ready to comply with the new Code?

- a. 1 October 2024
- b. Six months from publication (end December 2024)
- c. Twelve months from publication (end June 2025)
- d. More than twelve months from publication
- e. Don't know

5. Questions on section 2: monitoring and enforcement

33. This section has brought together some different sections from the relevant section of the current Code of Practice and has been lightly edited for clarity.

Q9. Are you happy with the clarity of this section and how it has changed from the current Code?

- a. Yes
- b. No
- c. Don't know

If you answered 'No', please provide details of anything that is unclear about the section, and/or the changes from the current Code.

6. Questions on section 3: general obligations

34. This section applies to any MF operator with input sampling requirements under section 4 of the Code, and/or output sampling requirements under section 5 of the Code, and/or next and end destination reporting requirements under section 6 of the Code. It is divided into two subsections.

35. Subsection 3.1 provides the general reporting obligations which apply to all the data collected under the Code. Information must be retained for seven years and made available to SEPA upon request. Sampling data, and other data for which the MF operator has a reporting requirement, must be reported every three months beginning from 1 October 2024. This subsection is materially unchanged from the current Code.
36. Subsection 3.2 gives three rules which apply to both input and output sampling under the Code. These have to do with:
- a. How material fragments are to be treated;
 - b. Under what circumstances glass must be separately identified as packaging;
 - c. Requirements for the sampling methodology.
37. Of these, (a) is unchanged from the current Code and has been moved to this section to avoid duplicating in both the input sampling and output sampling sections. (b) and (c) are new provisions in this Code; (b) is included because it is recognised that the new requirement for packaging EPR purposes to identify materials as packaging may not be practical to apply to glass; (c) is included to align with the England and Wales regulations.

Q10. Are you happy with the clarity of this section and how it has changed from the current Code?

- a. Yes
- b. No
- c. Don't know

If you answered 'No', please provide details of anything that is unclear about the section, and/or the changes from the current Code.

Q11. Do you agree with the conditions under which SEPA may require glass to be separately identified as packaging?

- a. Yes
- b. No
- c. Don't know

If you answered 'No', please give your reasons.

7. Questions on section 4: input sampling and reporting obligations

38. This section applies to any authorised MF operator handling 1000 tonnes or more of dry recyclable waste per annum and:

- Sorting dry recyclable waste into specified output material, and/or

- Consolidating or ‘bulking’ dry recyclable waste from two or more suppliers.
39. Subsections 4.1 and 4.2 require all such MF operators to carry out input sampling and specify how this is to be done. Subsection 4.1 is lightly edited from the current Code for clarity. Subsection 4.2 follows the current Code with the following substantial changes:
- Sampling must be undertaken more frequently; once every 75 tonnes rather than every 125 tonnes.
 - While the minimum *average* weight per sample remains 60kg, we have added a requirement for every individual sample to weigh at least 55kg in line with the England and Wales regulations.
 - Operators must identify, for each sample, data on the weight and type of packaging (including drink containers) in the sample, broken down by each type of target, non-target, and nonrecyclable material.
 - New categories of material grades have been added as requirements to identify; plastic pots/tubs/trays, plastic bottles, plastic film/other flexible plastic, aluminium, steel and fibre-based composite material.
40. Subsection 4.3 is lightly edited from the current Code for clarity.
41. Subsection 4.4 sets out the reporting requirements for input sampling. It follows the current Code with the following substantial changes:
- Requirement to report details of batch and supplier
 - Removal of requirement to report mean and standard deviation

Q12. Does the draft Code clearly state input sampling obligations?

- a. Yes
- b. No
- c. Don't know

If you answered ‘No’, please provide details of anything that is unclear.

Q13. Does the draft Code clearly state reporting obligations for input sampling?

- a. Yes
- b. No
- c. Don't know

If you answered ‘No’, please provide details of anything that is unclear.

8. Questions on section 5: output sampling and reporting obligations

42. This section applies to any authorised MF operator handling 1,000 tonnes or more of dry recyclable waste per annum and sorting dry recyclable waste into specified output material. That is, it applies to facilities in scope of the current Code, and not to facilities newly in scope.
43. Subsection 5.1 sets out the output sampling obligations for MF operators in scope. The major addition to the current Code is to require, for each sample, data on the weight and type of packaging (including drink containers) in the sample, broken down by each type of target, non-target, and nonrecyclable material.
44. Subsection 5.2 sets out how the sampling in subsection 6.1 must be carried out. This includes minimum requirements for the grades that each material category must be broken down into. The main change from the current draft is to add “fibre-based composite” as a material category with a minimum sampling frequency of one 50kg sample per 60 tonnes. Reporting grades for this category are given as “Wax coated paper cups” and “Other fibre-based composite food and drink cartons”; we would welcome feedback on this.
45. We have also taken this opportunity to amend the Code to provide (in line with England and Wales) that where a sample contains multiple materials, the applicable minimum frequency is to be determined by the material in the sample which has the highest sampling frequency, and the minimum weight of the sample is to be the minimum weight of sample associated with that material.
46. Subsection 5.3 sets out the reporting requirements for output sampling. It follows the current Code with the following substantial changes:
- Required to report packaging separately (as per change to sampling in paragraph 43).
 - Removal of requirement to report mean and standard deviation.

Q14. Does the draft Code clearly state output sampling obligations?

- a. Yes
- b. No
- c. Don't know

If you answered 'No', please provide details of anything that is unclear.

Q15. Does the draft Code clearly state reporting obligations for output sampling?

- a. Yes
- b. No
- c. Don't know

If you answered 'No', please provide details of anything that is unclear.

Q16. Do you agree with the grades of sampling for fibre-based composite set out in the draft Code?

- a. Yes
- b. No
- c. Don't know

If you answered 'No', please provide details of any suggested amendments or additions to the grades we have included in the draft.

Q17. Do you agree with the provision in the draft Code for output samples containing multiple materials?

- a. Yes
- b. No
- c. Don't know

If you answered 'No', please give your reasons.

9. Questions on section 6: next and end destination recording and reporting

47. This section applies to any authorised MF operator handling 1,000 tonnes or more of dry recyclable waste per annum and:

- Sorting dry recyclable waste into specified output material, and/or
- Consolidating or 'bulking' dry recyclable waste from two or more suppliers.

48. Other than light editing and the change to bring in new facilities within the scope of this obligation, we have not changed the reporting requirements under this section from the current Code.

Q18. Is this section clear and free from any unintended changes from the current Code?

- a. Yes
- b. No
- c. Don't know

If you answered 'No', please provide details of anything that is unclear about the section, and/or that has changed from the current Code.

- 49. The current Code includes a commitment to treat all information submitted under this section as commercial in confidence, subject to SEPA's sharing the information with the Scottish Government and Zero Waste Scotland at its discretion.
- 50. With the new reporting requirements, we would welcome views on what data should be treated as confidential under the new Code. Data will in any case need to be shared with the Scottish Government, Zero Waste Scotland, and the scheme administrator for packaging EPR at SEPA's discretion.

Q19. Which, if any, data do you consider are commercially sensitive and should be treated in confidence?

Please check all that apply.

- a. Input sampling data
- b. Output sampling data
- c. Supplier data
- d. Next and end destination reporting data
- e. Other
- f. None

If you answered 'Other', please specify.

10. Questions on section 7: definitions used in this Code of Practice

- 51. This list has been updated to reflect terms used in relation to the new reporting requirements.

Q20. Are all the definitions in this section clear?

- a. Yes
- b. No
- c. Don't know

If you answered 'No', please provide details of which definitions you consider unclear and why.

Q21. Are all terms in the document, for which a clear definition is necessary, given a definition in this section?

- a. Yes
- b. No
- c. Don't know

If you answered 'No', please specify which terms you would like to see defined in this section.

11. Closing question

Q22. Do you wish to make any other comments on the document as a whole?

Please provide any final comments.

Annex A – comparison with current Code

This Annex is intended to facilitate easy comparison with the current Code, issued by the Scottish Ministers on 2 March 2015, by allowing MF operators to look up the paragraph in the current Code which each paragraph of the new draft Code is based on, where applicable.

Where a substantial change has been made, a reference to the change log in Annex B has been included.

Paragraph in draft Code	Paragraph in current Code	Comment
1	1	Lightly edited (change 1.1)
2	2	Edited to take account of new requirements (change 1.2)
3	n/a	New paragraph to take account of new requirements (change 1.2)
4	3	Edited to take account of new requirements
5	5	Lightly edited
6	8	Lightly edited
7	9	Lightly edited
8	38	Edited to take account of new requirements
9	3	Lightly edited
10	11	Lightly edited
11	11	Lightly edited
12	34	Lightly edited
13	n/a	New introduction for following three paragraphs
14	19 and 26	Duplicate paragraphs collected here for ease of reading
15	n/a	New paragraph aligned with changes 4.3 and 5.1
16	n/a	New paragraph to make obligations clear
17	13	Lightly edited
18	n/a	New paragraph for clarity

19	15	Edited to take account of new requirements (change 4.1)
20	16	Edited to take account of new requirements (change 4.2)
21	17	Edited to take account of new requirements (change 4.3)
22	18	Edited to take account of new requirements (change 4.4)
23	14	Lightly edited
24	12	Lightly edited
25	27	Edited to take account of new requirements (changes 4.5 and 4.6)
26	20(a)	Edited to take account of new requirements (change 5.1)
27	n/a	New paragraph for clarity
28	20(b)	Lightly edited
29	23-25	Edited to take account of new requirements (changes 5.2 and 5.3)
30	21 and 36	Edited to take account of new requirements (change 5.2)
31	37	Lightly edited
32	29	Edited to take account of new requirements (change 5.2)
33	32	Lightly edited
34	33	Lightly edited
35	33	Lightly edited
36	41	Edited to add definitions for new terms

Annex B – changes log

This Annex provides justifications for the major changes that we have made from the current Code. It is not exhaustive and respondents are encouraged to study the changes closely before responding.

Reference number	Para in new Code	Change	Reason
Section 1: scope			
1.1	1	Introduced the term 'Materials Facility' (MF)	This is to refer to the broader category of sites now in scope for packaging EPR reporting purposes. The definition of MF is given in section 7.
1.2	2-3	Brought sites bulking from two or more suppliers in scope	As per 1.1, in line with requirements for packaging EPR reporting purposes
Section 4: input sampling and reporting obligations			
4.1	19	Increased reporting frequency to once per 75 tonnes	More robust reporting required for packaging EPR
4.2	20	Minimum 55kg sample size added	To align with England and Wales regulations
4.3	21	Required to report packaging separately	To allow compositional analysis to be applied to the packaging stream specifically, for packaging EPR purposes
4.4	22	New material categories	This level of detail is required by the packaging EPR scheme administrator when calculating disposal costs
4.5	25 (Table 2)	Requirement to report details of batch and supplier	To align with England and Wales regulations
4.6	25 (Table 2)	Removal of requirement to report mean and standard deviation	SEPA will now calculate these figures themselves

Section 5: output sampling and reporting obligations			
5.1	26	Required to report packaging separately	To allow compositional analysis to be applied to the packaging stream specifically, for packaging EPR purposes
5.2	29-30, 32 (Tables 3 and 4)	Sampling and reporting requirements for fibre-based composites	A packaging category under packaging EPR, so the scheme administrator needs this information
5.3	29 (Table 3)	Removal of requirement to report mean and standard deviation	SEPA will now calculate these figures themselves



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